REMARKS

Claims 1-55 were previously pending in this application. By this amendment, Applicants are canceling non-elected claims 1-21 and 35-55 without prejudice or disclaimer. Applicants are also canceling rejected claims 22 and 30 without prejudice or disclaimer. Applicants cancellation of rejected claims 22 and 30 is in no way a concession of the merits of the outstanding rejection; accordingly, Applicants expressly reserve the right to pursue the subject matter of these currently rejected claims in one or more continuation applications claiming priority to the instant application under 35 U.S.C. §120. Claims 23–29, 31, and 33-34 have been amended, and independent claim 56 has been added. As a result claims 23-29, 31-34, and 56 are pending for examination with claim 29, 31, and 56 being the independent claims. No new matter has been added.

Information Disclosure Statement

Applicants submitted an Information Disclosure Statement (IDS) to the U.S. Patent Office on June 19, 2002, and the return postcard indicates that the Patent Office received it on June 24, 2002. A review of PAIR on the Patent Office website also indicates that an IDS was received in the present application on June 24, 2002. Applicants respectfully request that the Examiner review and sign the PTO-1449 form to acknowledge reviewing this Information Disclosure Statement. If this IDS has been misplaced, Applicants request that the Examiner call the Applicants' attorney to resubmit the IDS.

Allowable Subject Matter

Applicants acknowledge the Examiner's finding that claims 29, 31 and 32 would be allowable if rewritten in independent form to include all of the limitations of their respective base claims and any intervening claims. Without acceding to the propriety of the rejection of the independent claims from which these claims initially depended, Applicants have rewritten claims 29 and 31 in independent form to expedite prosecution. Applicants have amended claims 23–28, which previously depended from rejected independent claim 22, to depend from claim 29 as amended. Similarly, Applicants have amended claims 33 and 34, which previously depended

from rejected independent claim 30, to depend from claim 31 as amended. Accordingly, claims 22-29, and 31-34 are believed to be in allowable condition.

Claim Rejections Under 35 U.S.C. §102/103

In the Office Action, claims 30, 33-34 were rejected under 35 U.S.C. §102(b) as being anticipated by Boudewijn (U.S. Patent No. 5,713,851). Claims 22-28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Tovey (U.S. Patent No. 5,527,330) in view of Meyer (U.S. Patent No. 5,027,792).

In view of the above cancellations and amendments, it is believed that this basis of rejection has been rendered moot. Accordingly, withdrawal of these rejections is respectfully requested.

New Claim

Applicants have added new independent claim 56 to further define one aspect of the invention. Independent claim 56 is directed towards a method for using a surgical liquid-jet instrument. Claim 56 is similar to independent claim 31, indicated as reciting allowable subject matter, except that claim 56 recites an act of directing the liquid jet *adjacent* to the surface and towards a jet-receiving opening in an evacuation lumen, while claim 31 recites an act of directing the liquid jet *essentially tangential* to the surface and towards a jet-receiving opening in an evacuation lumen. Nowhere does the prior art of record appear to disclose, suggest, or provide motivation for a method including the acts recited in new independent claim 56.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

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